

18772. Adulteration and misbranding of middlings. U. S. v. The Continental Milling Co. Plea of guilty. Fine, \$25 and costs. (F. & D. No. 25717. I. S. Nos. 029405, 029427, 029433.)

Examination of the shipments of middlings herein described showed that the article contained less fat than declared on the label, portions of the article were also deficient in protein and contained excessive fiber, two of the shipments bore no statement on the labels of the quantity of the contents.

On June 25, 1931, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against the Continental Milling Co., a corporation, Ellicott City, Md., alleging shipment by said company, in violation of the food and drugs act as amended, on or about February 15, 1930, and March 19, 1930, from the State of Maryland into the State of Virginia, of quantities of middlings which were misbranded, and a portion of which was also adulterated.

Two lots of the article were labeled in part: (Tag) "Pure Wheat White Middlings, Guaranteed Analysis Protein 16.50% Fat 5.00% * * * Fibre 3.25% * * * [stamped on tag] The Continental Milling Company Ellicott City, Md." The third lot of the article was labeled in part: "Continental Middlings, 100 Lbs. Net When Packed Guaranteed Analysis Protein 14.00%, Fat (Ether Extract) 4.00% * * * Fiber 8.00%. Ingredients: Wheat Middlings, Wheat Bran and Ground Screenings not exceeding mill run. Manufactured by The Continental Milling Co. Ellicott City, Md."

It was alleged in the information that the portion of the article, labeled "Continental Middlings," was adulterated in that ground screenings and bran in excess of the mill run had been mixed and packed with the article so as to reduce and lower and injuriously affect its quality and strength; and in that a product deficient in protein and fat and containing added ground screenings and bran in excess of the mill run had been substituted for the said article.

Misbranding was alleged with respect to all lots of the product for the reason that the statements, "Guaranteed Analysis * * * Fat 5.00% * * * Fibre 3.25%," with respect to a portion of the white middlings; the statements, "Guaranteed Analysis Protein 16.50%, Fat 5.00% * * * Fibre 3.25%," with respect to the remaining lot of the white middlings, and the statements, "Guaranteed Analysis Protein 14.00%, Fat (Ether Extract) 4.00% * * * Ingredients: Wheat, Middlings, Wheat Bran and Ground Screenings not exceeding mill run," with respect to the said Continental middlings, were false and misleading in that the statements represented that the article contained the percentages of protein, fat, and fiber declared on the labels; and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it contained the said percentages of protein, fat, and fiber; whereas one lot of the white middlings contained less fat and more fiber than labeled, one lot contained less protein, less fat, and more fiber than labeled, and the Continental middlings contained less protein and less fat than labeled, and contained ground screenings and bran in excess of the mill run. Misbranding was alleged with respect to both shipments of the white middlings for the further reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On June 25, 1931, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$25 and costs.

ARTHUR M. HYDE, *Secretary of Agriculture.*

18773. Adulteration and alleged misbranding of butter. U. S. v. 13 Tubs, et al., of Butter. Consent decree of condemnation entered. Product released under bond. (F. & D. Nos. 25270, 25272. I. S. Nos. 3247, 3248. S. Nos. 3446, 3463.)

Samples of butter from the shipment herein described having been found to contain less than 80 per cent of milk fat, the standard provided by act of Congress, the Secretary of Agriculture reported the matter to the United States attorney for the Western District of New York.

On September 26 and September 29, 1930, the United States attorney filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of 95 tubs of butter, remaining in the original unbroken packages at Buffalo, N. Y., consigned by the Great Lakes Terminal Warehouse, Detroit, Mich., alleging that the article had been shipped from Detroit, Mich., on September 5, 1930, and had been transported from the State of Michigan into the State of New York, and charging adulteration and misbranding in violation of the food and drugs act.

It was alleged in the libels that the article was adulterated in that a product containing less than 80 per cent of milk fat (or butterfat) had been substituted for butter.

Misbranding was alleged for the reason that the article was represented to be butter, which was false and misleading, since it contained less than 80 per cent of milk fat.

On November 11, 1930, Thomas W. Hackworth (Inc.), having appeared as claimant for the property and having consented to the entry of decrees, judgments were entered condemning the product as adulterated, and it was ordered by the court that the said product be delivered to the claimant to be reworked under the supervision of this department, upon payment of costs and the execution of bonds totaling \$3,940, conditioned in part that it should not be sold or otherwise disposed of contrary to the Federal food and drugs act, or the laws of any State, Territory, district, or insular possession.

ARTHUR M. HYDE, *Secretary of Agriculture.*

18774. Adulteration of herring. U. S. v. 8 Boxes of Herring. Default decree of destruction entered. (F. & D. No. 26804. I. S. No. 25776. S. No. 4961.)

Samples of herring from the shipment herein described having been found to be infested with worms, the Secretary of Agriculture reported the matter to the United States attorney for the Southern District of Ohio.

On July 27, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of eight boxes of herring at Cincinnati, Ohio, alleging that the article had been shipped by the Lake Superior Fish Co., Duluth, Minn., on or about July 16, 1931, and had been transported from the State of Minnesota into the State of Ohio, and charging adulteration in violation of the food and drugs act.

It was alleged in the libel that the article was adulterated in that it contained triaenophori (worms) and consisted in whole or in part of a filthy, decomposed, or putrid animal substance, and in that it was a portion of an animal unfit for food.

On August 4, 1931, no claimant having appeared for the property and the court having found that the product was spoiled and unfit for food, judgment was entered, nunc pro tunc as of July 27, 1931, ordering that it be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

18775. Adulteration of canned prunes. U. S. v. 38 Cases of Prunes. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 26043. I. S. No. 18226. S. No. 4342.)

Samples of prunes from the shipment herein described having been found to be decomposed, the Secretary of Agriculture reported the matter to the United States attorney for the Southern District of Iowa.

On March 18, 1931, the United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 38 cases of canned prunes, remaining in the original cases at Ottumwa, Iowa, alleging that the article had been shipped by the National Fruit Canning Co., Seattle, Wash., on or about November 26, 1930, and had been transported from the State of Washington into the State of Iowa, and charging adulteration in violation of the food and drugs act. The article was labeled in part: (Can) "Real Fruit Brand Italian Prunes packed by National Fruit Canning Co., Seattle, Washington."

It was alleged in the libel that the article was adulterated in that it consisted in part of a decomposed vegetable substance.

On September 18, 1931, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

18776. Misbranding of cottonseed meal. U. S. v. 600 Bags of Cottonseed Meal. Consent decree of condemnation. Product released under bond. (F. & D. No. 27119. I. S. No. 23812. S. No. 5180.)

Examination of the shipment of cottonseed meal herein described having shown that the sacks containing the article were not marked with a plain and conspicuous statement of the quantity of the contents, the matter was reported to the United States attorney for the District of Kansas by an official of the Kansas State Board of Agriculture.